

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 2071 of 2024**

Arising Out of PS. Case No.-135 Year-2021 Thana- EKMA District- Saran

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Ajit Kumar @ Ajit Kumar Mahto Son of Sharma Mahto Resident of Village-
Ekma Chatti, P.S- Ekma, Dist- Saran at Chapra

... .. Appellant/s

Versus

1. The State Of Bihar
2. Anshu Kumar Manjhi Son of Tileshtar Manjhi Resident of Village- Ekma ,
Near Registry Office, P.S- Ekma, Dist- Saran At Chapra

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Dewendra Narayan Singh
For the Respondent/s : Mr.Bal Mukund Prasad Sinha

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL ORDER

3 12-08-2024 Heard.

2 This appeal has been preferred against the order dated 27.03.2024 passed by the learned Additional Sessions Judge I, Saran at Chapra in C C Case No 5 of 2024 arising out of Ekma PS Case No 135 of 2021 registered for the offence punishable under Sections 302/34 of the IPC and Section 27 of the Arms Act whereby the learned Additional Sessions Judge has rejected the application for grant of regular bail to the appellant.

3 According to the case of the prosecution, one Anshu Kumar lodged the FIR on 07.04.2021 alleging therein that on that day, at about 1 – 2 o'clock, he was present with Niraj,



Ranjit and Gautam Manjhi. At that time, the co-accused Biru Mahto came there along with one unknown person on a motorcycle. Biru Mahto was seated backside on the said motorcycle and he fired on Amit Kumar Singh due to that he sustained gunshot injury on his chest resulting into his death. On the basis of the said information, FIR was lodged.

4 During the course of investigation, the statements of two witnesses, namely, Vasdeo Mahto and Shatrudhan Mahto were recorded under Section 161 of the Cr P C on 08.11.2023 and on 18.12.2023 respectively and on the basis of the said statements, the appellant was arrested on 18.12.2023.

5 Learned counsel for the appellant submits that the appellant has falsely been implicated in this case due to some previous enmity with the deceased family. He further submits that in the FIR, name of the appellant is missing. Informant as well as other witnesses, who were present at the time of incident, have not stated the name of the appellant. However, after two years of the incident, the statements of Vasdeo and Shatrudhan, who were not present at the spot, has been recorded under Section 161 of the Cr P C and in their statements, due to some previous enmity, they have stated the name of the appellant as a driver of the motorcycle which was used by the



main accused for commission of the alleged crime of murder. The learned counsel for the appellant further submits that no TIP of the appellant has been conducted. Therefore, according to the counsel, prima facie, no case under Sections 302/34 of the IPC is made out against the appellant. He has one antecedent in which he is on bail. Social Investigation Report also does not suggest anything against the appellant.

6 Learned counsel for the State opposes the prayer for bail.

7 Considering the submission of both the parties and further considering the fact that the appellant is in custody since 18.12.2023 and also considering that he has been made accused only on the statements of two witnesses which have been recorded after two years of the incident, I am of the view that the appellant may be granted the privilege of bail.

8 Considering the above facts, this appeal is allowed.

9 Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge I, Saran at Chapra in C C Case No 5 of 2024 arising out of Ekma PS Case No 135 of 2021 subject to the following conditions:



(i) That one of the bailors should be the father of the appellant, and

(ii) That the father of the appellant shall file an affidavit before the concerned Court below, giving specific undertaking that after release of the appellant on bail, he will take proper care of the appellant and will not allow him to fall into bad company.

(Arvind Singh Chandel, J)

M.E.H./-

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